

# **SAFETY AWARENESS BOARD**

## **Minutes**

**Wednesday, February 9, 2005**

**9:00 a.m.**

**In attendance: Joseph Sabitoni**

**Ed Ladouceur**

**Dan Jones**

**Robin Coia**

**Wayne Coulombe**

**Nick Giardino**

**Eric Anderson**

**James Jackson**

**Bernard Trembl**

**Chairperson, Joseph Sabitoni called the meeting to order at 9:10 a.m.**

**There is a quorum. All members were in attendance for today's meeting.**

**The first order of business today is acceptance of minutes of the Wednesday, January 12, 2005 meeting. Everyone had an opportunity to review the minutes. Mr. Nick Giardino made motion to approve the minutes as submitted. Mr. Dan Jones seconded the motion. All members voted in favor.**

**The next order of business is appeal hearings. There are four (4) appeal hearings on the agenda, for which there is a court reporter. Mr. Sabitoni explained the Board's procedures for conducting appeal hearings. Mr. Karl Swanson, Prevailing Wage Examiner, was sworn in by the court reporter.**

#### **APPEAL HEARING:**

**The first appeal on the agenda pertains to Pezzuco Construction, Inc. Mr. Richard Pezzuco was in attendance on behalf of Pezzuco Construction, Inc., and was sworn in by the court reporter.**

**Mr. Swanson read the violation. On November 17, 2004, Investigator, Karl D. Swanson, visited the New Riverside Library, East Providence, RI, and found four (4) employees of South County Concrete Foundations, Inc. All four (4) of these employees were found to be working on the project without OSHA 10-hour certification. These individuals identified themselves as Mr. Anthony Manzo, Mr. Andrew Owens, Mr. Steve Smith, and Mr. John Desmarais. All of the above employees were advised of the alleged violations, as was Mr. Richard Pezzuco of Pezzuco Construction, Inc., the general contractor on this project. South County Concrete Foundations, Inc. is a sub-contractor to Pezzuco Construction, Inc. Mr. Swanson informed the Board that South County Concrete Foundations, Inc. appealed their violation at the January 12, 2005 meeting of the Safety Awareness Board, and their fine was suspended for a 12 months period pending any further violations. Pezzuco Construction was assessed fines in the amount**

of \$500 for each of four (4) violations, for a total of \$2,000.

Mr. Pezzuco stated that the above employees of South County Concrete Foundations did not have their OSHA 10-hour cards. Mr. Pezzuco and all of his employees have their OSHA 10-hour cards. The did not know employees of South County Concrete Foundations did not have their

OSHA 10-hour certification. The job had just started, and upon finding out these employees did not have their OSHA 10-hour certification, Mr. Pezzuco spoke to Mr. Swanson and asked for a list of people who teach the course. Mr. Pezzuco then helped South County Concrete Foundations enroll in a class and get their OSHA 10-hour cards. Pezzuco Construction, Inc. has been in business for 18 years, and they have a great safety record. Their contract for sub-contractors states that all sub-contractors have to comply with the OSHA 10-hour certification requirement. Mr. Pezzuco stated that he would provide the Board with a copy of the contract he uses for his sub-contractors. The Board requested this because Mr. Owens of South County Concrete Foundations stated in the minutes of the January 12, 2005 Safety Awareness Board, that he was never told, nor did his contract with Pezzuco Construction, Inc. mention anything about the OSHA 10-hour certification requirement.

Mr. Coulombe asked Mr. Pezzuco what safeguards he has taken to insure this does not happen again, and Mr. Pezzuco stated that he will be getting assurances from the foreman on each prevailing wage job that all individuals working on the project have their OSHA 10-hour certification.

**Mr. Giardino made a motion that based on the testimony presented, a finding of fact was made that four (4) employees of South County Concrete Foundations were working on the New Riverside Library in East Providence, RI without OSHA 10-hour certification. However, if Mr. Pezzuco can produce the sub-contract he holds with South County Concrete Foundations with language that requires OSHA 10-hour certification for all employees on the job site, then a recommendation will be made to the Director of Labor & Training to suspend the \$2,000 fine for a 12-month period pending any further violations. Should insufficient language be present in the contract, or no contract is produced for review by the Department, then a recommendation will be made to the Director to uphold the \$500 fine for each of four (4) violations, for a total of \$2,000. Ms. Coia seconded the motion. All members voted in favor.**

**The second appeal on the agenda pertains to Great Meadow Farm. Mr. Richard Sumner was in attendance on behalf of Great Meadow Farm, and was sworn in by the court reporter.**

**Mr. Swanson read the violation. On October 6, 2004, Investigator, Karl D. Swanson visited CVS Complex, 400 Founders Drive, Woonsocket, RI, and found two (2) employees working on the project without OSHA 10-hour certification. Those employees identified themselves as Mr. Travis T. Sumner (Foreman) and Mr. Andre Pilar. These individuals were advised of the alleged violations, as was the City**

**Engineer for Woonsocket, Mr. Michael Debroisse. Great Meadow Farm is the general contractor on this project. Great Meadow Farm was issued fines in the amount of \$950 for each of two (2) violations, for a total of \$1,900.**

**Mr. Sumner stated that this was their first municipal/state project in Rhode Island. They are a company out of Massachusetts. They have a spotless safety record up to this point. After receiving notice of this violation, the two (2) employees noted above and all of the other employees of Great Meadow Farm attended the OSHA 10-hour training. This was done within one week's time, and the job was closed until all employees were properly trained. At this point, everyone is in compliance. Mr. Sumner did not bring copies of the cards with him, however, he will provide them to Mr. Swanson within 24 hours. Ms. Coia asked why for a first offense this company was issued the maximum fine of \$950 for each of two (2) violations. Mr. Ron D'Ambruso, Administrator in the Division of Professional Regulation stated that an accident occurred at this job site. A hydraulic excavator turned over into the mud.**

**Mr. Coulombe made a motion that based on the evidence presented, two (2) employees of Great Meadow Farm were working at the CVS Complex, 400 Founders Drive, Woonsocket, RI without OSHA 10-hour certification. However, if Mr. Sumner can provide copies of OSHA 10-hour cards, then a recommendation will be made to the Director of**

**Labor & Training to suspend the \$1900 fines for a 12 month period pending any further violations. Mr. Anderson seconded the motion. Mr. Coulombe, Mr. Anderson and Mr. Giardino voted in favor of this motion. Mr. Jackson, Mr. Jones, Ms. Coia and Mr. Ladouceur voted in opposition. The motion failed. Therefore, a recommendation will be made to the Director of Labor & Training to uphold the fines of \$950 for each of two (2) violations, for a total of \$1,900.**

**The third appeal on the agenda pertains to Dimeo Construction, Inc. Ms. Lori Corsi was in attendance on behalf of Dimeo Construction, Inc., and was sworn in by the court reporter.**

**Mr. Swanson read the violation. On December 30, 2004, Investigators, Karl Swanson and Lisa Tirocchi visited the Newport Heights Housing Project, Maple Street, Newport, RI, and found six (6) employees of S & F Concrete working on the project without OSHA 10-hour certification. Those individuals identified themselves as Mr. Sergio P. Freitas, Mr. Roger Melo, Mr. Antonio M. Silva, Mr. Domingos M. DaSilva, Mr. Paulo C. Alves, and Mr. Carlos A. Silva. These individuals were advised of the alleged violation, as was the Project Superintendent, Mr. David Croce. Dimeo Construction is the general contractor on this project. S & F Concrete is a sub-contractor to Dimeo Construction. Dimeo Construction was issued fines in the amount of \$950 for each of six (6) violations, for a total of \$5,700. Each of the employees were also sited, however, none have requested appeals up to this point.**

**Ms. Corsi stated that Dimeo is the general contractor on this project. Their contract with S & F Concrete does not specifically state that employees must have OSHA 10-hour certification, however, it does say all sub-contractors shall abide by all state and federal laws. Since this incident occurred, they have changed their sub-contracts for all public works projects to include specific language regarding the requirement for OSHA 10-hour certification. Ms. Corsi also provided the Board with a letter and minutes of at least two (2) meetings Dimeo held for all sub-contractors informing them of all requirements on the job including OSHA 10-hour certification. They also had toolbox meetings. S & F Concrete never attended any of the meetings. S & F Concrete was removed from the job site until they can provide Dimeo with the name of a trainer that trained all of their employees who will be working on the project, as well as copies of OSHA 10-hour cards. Dimeo has also created signs to be posted all over the job site informing individuals working on the project that they must have their OSHA 10-hour certification.**

**Mr. Anderson made a motion that based on the testimony presented, six (6) employees of S & F Concrete were working on the Newport Heights Housing Project without OSHA 10-hour certification, however, Dimeo acted with due diligence both prior to and after the incident occurred, and therefore a recommendation be made to the Director of Labor & Training that fines in the amount of \$950 for each of six (6) violations, for a total of \$5,700 be suspended for a 12-month**

period pending any further violations. Mr. Coulombe seconded the motion. All members voted in favor.

The final appeal on the agenda pertains to Kurbiec Construction, Inc. Mr. Robert Kurbiec was in attendance on behalf of Kurbiec Construction, Inc., and was sworn in by the court reporter. Mr. Patrick Luther, Investigator for the Department was also sworn in by the court reporter.

Mr. Swanson read the violation. On November 5, 2004, Chief Plumbing Investigator, Patrick Luther visited the Smithfield Senior Center, Deerfield Park, Smithfield, RI, and found two (2) employees of Shanix, Inc. working on the project without OSHA 10-hour certification. These individuals identified themselves as Mr. Pierre G. Dorval and Mr. Stephen B. Marcoccio. These employees were advised of the alleged violations, as was the project superintendent, Mr. Mike Mello. Kurbiec Construction, Inc. is the general contractor on this project. Shanix, Inc. is a sub-contractor to Kurbiec Construction, Inc. Kurbiec Construction, Inc. was issued fines in the amount of \$950 for each of two (2) violations, for a total of \$1,900.

Mr. Swanson read a letter from Mr. Kurbiec explaining that he does not have a contract with Shanix, Inc. Mr. Kurbiec asserts that Shanix, Inc. is not his sub-contractor. Upon investigation by Mr. Swanson, he was informed by Mr. Jim Suzman of the Town of Smithfield that

**Shanix, Inc. does not have a contract with the Town of Smithfield. Mr. Suzman stated that Shanix, Inc. is a sub-contractor of Kurbiec Construction, Inc.**

**Mr. Kurbiec stated that when he bid this project, he came in originally to do the communications work. They changed the whole job to a public address system, which was not in the plans and specifications.**

**What he bid on originally is no longer there. Mr. Kurbiec stated what he was supposed to do is put this out to re-bid because it is a change in the scope of the work. The town accepted it. Mr. Kurbiec has to take this to an engineer to have it approved. When the engineer approves it, he can then put it out to rebid. However, there is no contract out on this project yet. The work is still not approved, and he still does not have a contract.**

**Mr. Luther stated that on investigation of this project, he witnessed two (2) people pulling communications wires. They were employees of Shanix, Inc. Mr. Luther was told by the town of Smithfield that Shanix, Inc. was a sub-contractor of Kurbiec Construction, Inc.**

**After a brief discussion, it was noted that there was no one from the town of Smithfield to provide testimony, and there was a discrepancy as to who Shanix, Inc. has a contract with. Therefore, there is no evidence of any contractual relationship with Kurbiec and Shanix or with Shanix and the town of Smithfield. Mr. Sabitoni made a motion to dismiss this case. Mr. Jones seconded the motion. All members**

**voted in favor.**

**This concluded the hearings. A motion was made by Ms. Coia to close the hearings. Mr. Ladouceur seconded the motion. All members voted in favor.**

**The Board discussed that certain information should be added in the appeal hearing notice. That being, to bring any documentation relative to the matter to the appeal; and, if the company will be representing an employee who has been cited, then the Board needs a signed letter from the employee giving the company authority to represent them.**

**Mr. Ladouceur asked the Department to find out if a corporation needs to authorize the individual who will be representing them on appeals if that person is not an officer of the corporation.**

**There was no further business before the Board. Mr. Giardino made a motion to adjourn at 10:35 a.m. Mr. Bernard Trembl seconded the motion. All members voted in favor. The next meeting of the Board of Safety Awareness is scheduled for Wednesday, March 9, 2005 at 9:00 a.m. in Building 70 of the RI Department of Labor & Training, Second Floor Conference Room, 1511 Pontiac Avenue, Cranston, RI 02920.**